

1958

September 18

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CONCORD, N.H.

Mr. James J. Barry, Commissioner  
Department of Public Welfare  
State House Annex  
Concord, New Hampshire

Dear Mr. Barry:

This will acknowledge your letter of September 15, 1958, and will also serve as a supplement to my opinion of July 10, 1958, to Dr. Vail, Assistant Superintendent of the State Hospital, with regard to eligibility for Old Age Assistance of patients released from the State Hospital on parole or convalescent status.

It is my understanding that you agree with my opinion of July 10, 1958, that patients released from the State Hospital on parole or convalescent status are eligible for Old Age Assistance. Incidentally, you are correct in your assumption that the term "convalescent status" as used in that opinion refers to the temporary absence authorized by RSA 135:31. However, you state that in your opinion a patient can be released on parole only by the Superior Court and can be released on convalescent status only by the Superintendent with the approval of the Trustees. From this you conclude that if a patient is released on convalescent status without the approval of the Trustees his release is improper and he is still, technically, "an inmate of a public institution".

It is our opinion that you are correct in this contention. RSA 135:31 provides in part as follows:

"The superintendent of the hospital, with the approval of the trustees, may permit any inmate thereof temporarily to leave said institution in charge of his guardian, relatives, or friends, for a period not exceeding six months . . ."

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Mr. James J. Barry, Commissioner

It is clear under section 31 that approval of the Trustees is required in order that a patient may be released on convalescent status by the Superintendent of the Hospital and that a patient released without such approval is improperly released and therefore, technically, still an inmate of the Hospital. It therefore follows that in the latter case the patient would not be eligible for Old Age Assistance. However, it is equally clear that if the Trustees have approved his release on convalescent status he is eligible for Old Age Assistance if he meets the other technical requirements for eligibility.

Sincerely yours,

John J. Zimmerman  
Assistant Attorney General

JJZ/lc

State Hospital, Approval of Trustees Required for  
Temporary Release of Patient

Under the provisions of RSA 135:31, approval of the Trustees  
of the State Hospital is required before a patient may be  
permitted to be temporarily absent from the Hospital.  
Zimmerman to Commissioner, Public Welfare Sept. 18, 1958